

NO. 5:16-CR-326-FL-1

ORDER

The court has authority to issue a post-judgment recommendation to the BOP for placement in community confinement. See 18 U.S.C. § 3621(b)(4) (explaining the BOP may consider “any statement” by the sentencing court “recommending a type of penal or correctional facility” when


determining an inmate's place of confinement); United States v. Ferguson, No. 6:16-CR-707-JMC-8, 2018 WL 5095149, at *2-3 (D.S.C. Oct. 18, 2018) (collecting cases); see also United States v. Ceballos, 671 F.3d 852, 856 n.2 (9th Cir. 2011) (noting in dicta the district court has "authority to make (or not make) non-binding recommendations to the Bureau of Prisons at any time"); cf. United States v. Smith, 733 F. App'x 86, 88 (4th Cir. 2018) ("[A] district court's sentencing recommendation is not binding on the BOP, and thus is neither a final decision . . . nor a final sentence under 18 U.S.C. § 3742 (2012).").

While the court finds it has authority to issue post-judgment recommendation for placement in community confinement, it declines to exercise such authority here. The court did not recommend community confinement at sentencing despite consideration of all relevant pre-sentencing conduct. And the BOP is better positioned to evaluate whether defendant's post-sentencing conduct justifies placement in community confinement.

The court, however, commends defendant for his record of achievement in custody, as reflected in the instant motion. Defendant's reported performance in custody is consistent with the court's expectations at time of sentencing.

Based on the foregoing, the court DENIES defendant's motion for judicial recommendation for 12 months of RRC/Halfway House placement (DE 92).

SO ORDERED, this the 20th day of September, 2019.


LOUISE W. FLANAGAN
United States District Judge